



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BOULEVARD, SUITE 310
FORT MYERS, FLORIDA 33919

July 8, 2009

JUL 08 2009

Jacksonville Regulatory Division
South Permits Branch/Fort Myers Section

PUBLIC NOTICE

Permit Application No. SAJ-2009-02014 (IP-LAE)

TO WHOM IT MAY CONCERN: This district has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

APPLICANT: U.S. National Park Service
Big Cypress National Preserve
33100 Tamiami Trail E.
Ochopee, FL 34141-1000

LOCATION: The project area (2.48 acres) consists of 23 areas along 1.7 miles of designated off-road vehicle (ORV) trails within the Bear Island Management Unit, Big Cypress National Preserve, in Sections 3, 22, 23, 25, 28, 34, 35, 36, Township 49S, Ranges 30E, 31E, near Ochopee, Collier County, Florida.

Directions to the site: From the intersection of Collier Boulevard and U.S. 41/Tamiami Trail E in Naples, travel south on U.S. 41 for approximately 40 miles to Ochopee (5 miles east of intersection with S.R. 29) to park entrance; trails are in the north-west quadrant of the Preserve, off Turner River Road/C.R. 839 with public access controlled by the National Park Service.

LATITUDE & LONGITUDE (NAD83) (center): Latitude 26.2000 N
Longitude -81.2500 W

PROJECT PURPOSE:

Basic: to rehabilitate existing off-road vehicle (ORV) trails

Overall: to rehabilitate existing designated ORV trails (Cypress Camp Trail; Hinson Trail; Plains Trail) within the Bear Island Management Unit of Big Cypress National Preserve near Ochopee, Florida via discharge of clean fill/limerock.

PROPOSED WORK: The project involves discharge of approximately 2,001 cubic yards of clean fill/limerock material to 2.48 acres of Waters of the U.S. associated with the rehabilitation of existing designated ORV trails (Cypress Camp Trail; Hinson Trail; Plains Trail) as part of the *Recreational Off-Road Vehicle Management Plan/Supplemental Environmental Impact Statement* (NPS, 2000). The duration of construction is estimated at 4-5 months using land-based equipment. The final trail elevations will be consistent with the adjacent wetland grades.

Avoidance and Minimization Information: The applicant's efforts to avoid and/or minimize impacts to the aquatic environment are as follows: a) the applicant considered a variety of project plans and the proposed work incorporates costs, logistics and minimization of wetland impacts; b) the work activities have been modified to use "environmentally-friendly" techniques (i.e., spot treatments) of existing trails; c) the applicant has proposed the minimum amount of fill required to make the project feasible; d) the work is part of the *Recreational Off-Road Vehicle Management Plan/Supplemental Environmental Impact Statement* (NPS, 2000) that incorporates use of designated trails in lieu of dispersed-use by ORVs that had historically resulted in adverse impacts to wetlands. The work activities are integral to incorporation of the U.S. Fish & Wildlife Service's reasonable and prudent measures as presented in a Biological Opinion dated July 8, 2000 with respect to ORV use in the Bear Island Management Unit of the BCNP.

Compensatory Mitigation: The proposed project is integral to an existing mitigation plan to compensate for historical dispersed-use ORV impacts to wetlands; therefore, no additional mitigation is required. The project will enhance restoration of previously-disturbed (rutted/eroded) wetlands and improve site hydrology.

EXISTING CONDITIONS: There are 23 project areas (total 2.48 acres) located along 3 existing designated ORV trails within the Bear Island Management Unit of the 729,000-acre BCNP. The impacted wetland community characteristics are: Cypress Camp Trail (0.92 acre palustrine emergent); Hinson Trail (1.32 acre palustrine emergent/palustrine forested); Plains Trail (0.24 acre palustrine emergent) dominated by hydric pine and cypress vegetation. The entire BCNP is an "Outstanding Florida Water".

ENDANGERED SPECIES: The U.S. Army Corps of Engineers (Corps) evaluated potential impacts to listed species and has determined that the project does not pose potential impacts to any listed species or any designated critical habitat(s). Although the

project is located within a core-foraging area for the wood stork, a primary consultation area for the Florida panther, and supports habitat for the red-cockaded woodpecker and Eastern indigo snake, the FWS issued Biological Opinion (BO) (July 8, 2000) associated with the "Recreational Off-Road Vehicle Management Plan/Supplemental Environmental Impact Statement" (NPS, 2000) and concluded that trail improvements would not likely jeopardize any federally threatened or endangered species that occur in the BCNP. Additionally, the BO stated that the restoration activities included in the BCNP ORV management Plan "should increase the amount and quality of habitat for both panther and prey species. This increase could contribute to population recovery by providing additional, higher quality prey items". The BO also stated that for wood storks, the disturbance intensity, or amount of wood stork habitat affected by implementation of the ORV management Plan "should be reduced or remain unchanged" and referred to NPS use of the "Habitat Management Guidelines for the Wood Stork in the Southeast Region" to ensure adequate setbacks for ORV trails from colony sites; additionally, the Corps determined the current project locations are more than 8 miles from the nearest wood stork colony and the work will not affect suitable foraging habitat for the wood stork. There are no potential impacts to species under National Marine Fisheries Service (NMFS) purview, and no further consultation is required.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the NMFS on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act of 1996. The proposed work would directly impact 2.48 acres of non-tidal palustrine wetlands dominated by hydric pine and cypress vegetation. There is no reasonable access for fisheries resources, and there are no anticipated impacts to various life stages of freshwater aquatic species. The Corps initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally-managed fisheries in the vicinity of the site. Our final determination relative to project impacts and the need for mitigation measures is subject to review/coordination with NMFS.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water quality certification may be required from the Florida Department of Environmental Protection (FDEP) and/or one of the Water Management Districts.

Comments regarding the application should be submitted in writing to the District Engineer at the above address within 21 days from the date of this notice.

If you have any questions concerning this application, you may contact Linda A. Elligott at the letterhead address, via e-mail at Linda.A.Elligott@usace.army.mil, by fax at 239-334-0797, or by telephone at 239-334-1975, Ext. 32.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on analysis of the applicant's avoidance and minimization efforts for the project, as well as any proposed compensatory mitigation.

IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with US Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

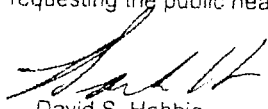
IMPACT ON CULTURAL RESOURCES: Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible for inclusion therein, are located at the site of the proposed work. Presently, unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

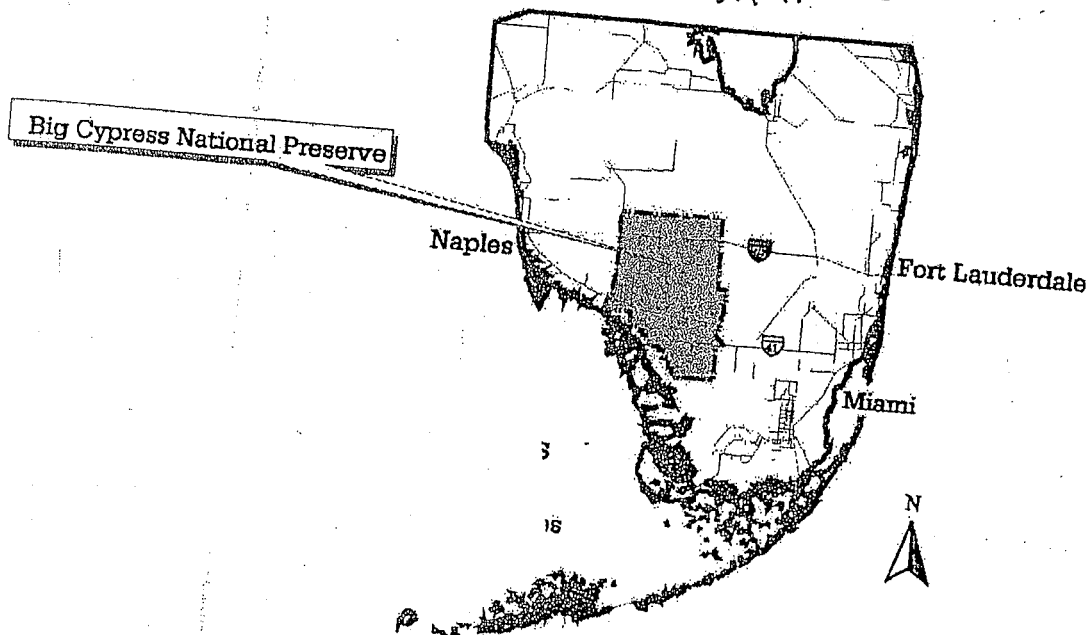
The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.


David S. Hobbie
Regulatory Division

- LOCATION MAP -

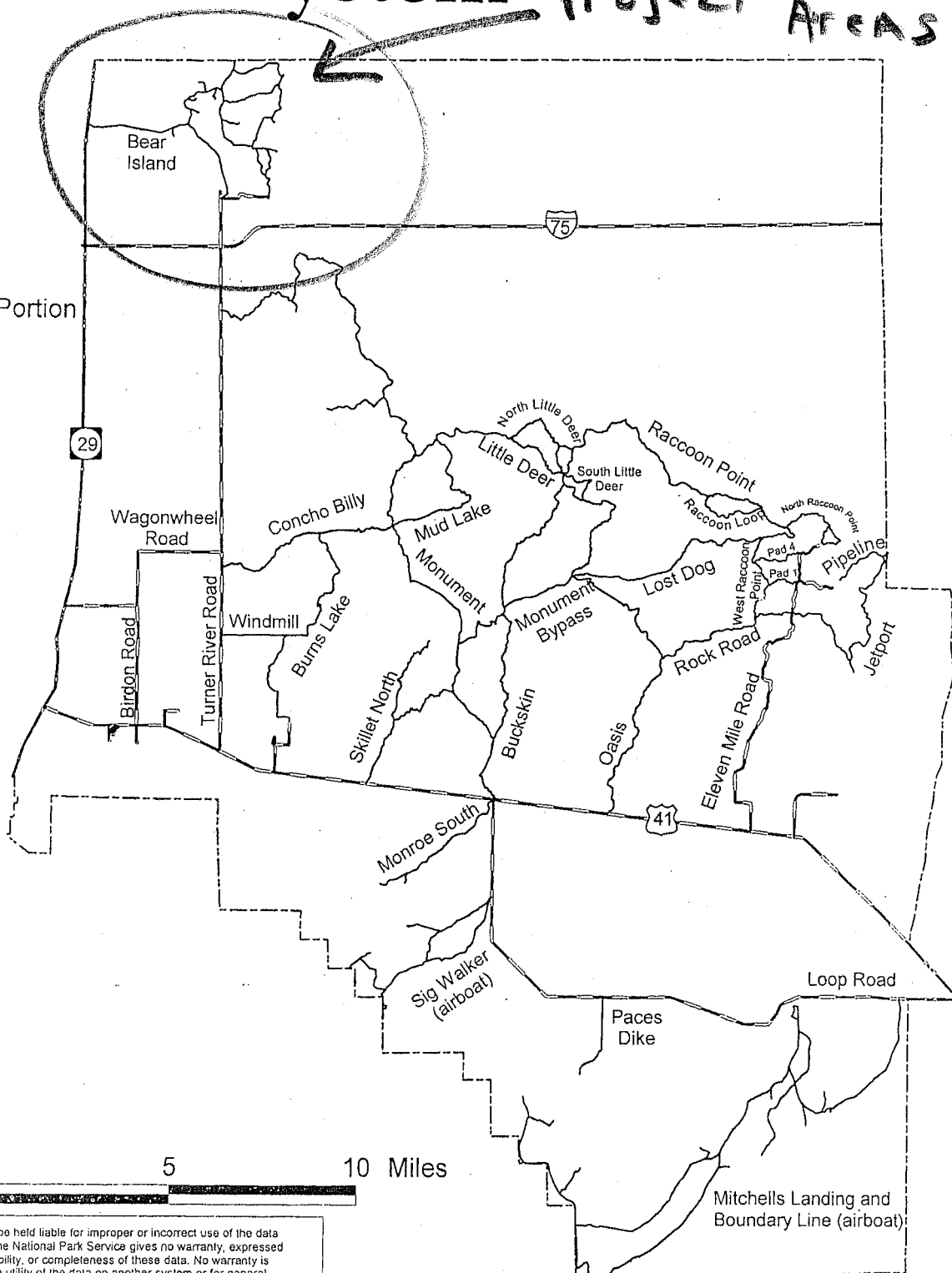


SAJ-2009-2014 (IP-LAE)
Big Cypress National Preserve ORV Trails
July 8, 2009
Figure 1/5

ORV Trail System Project Areas

Phase I Trails:

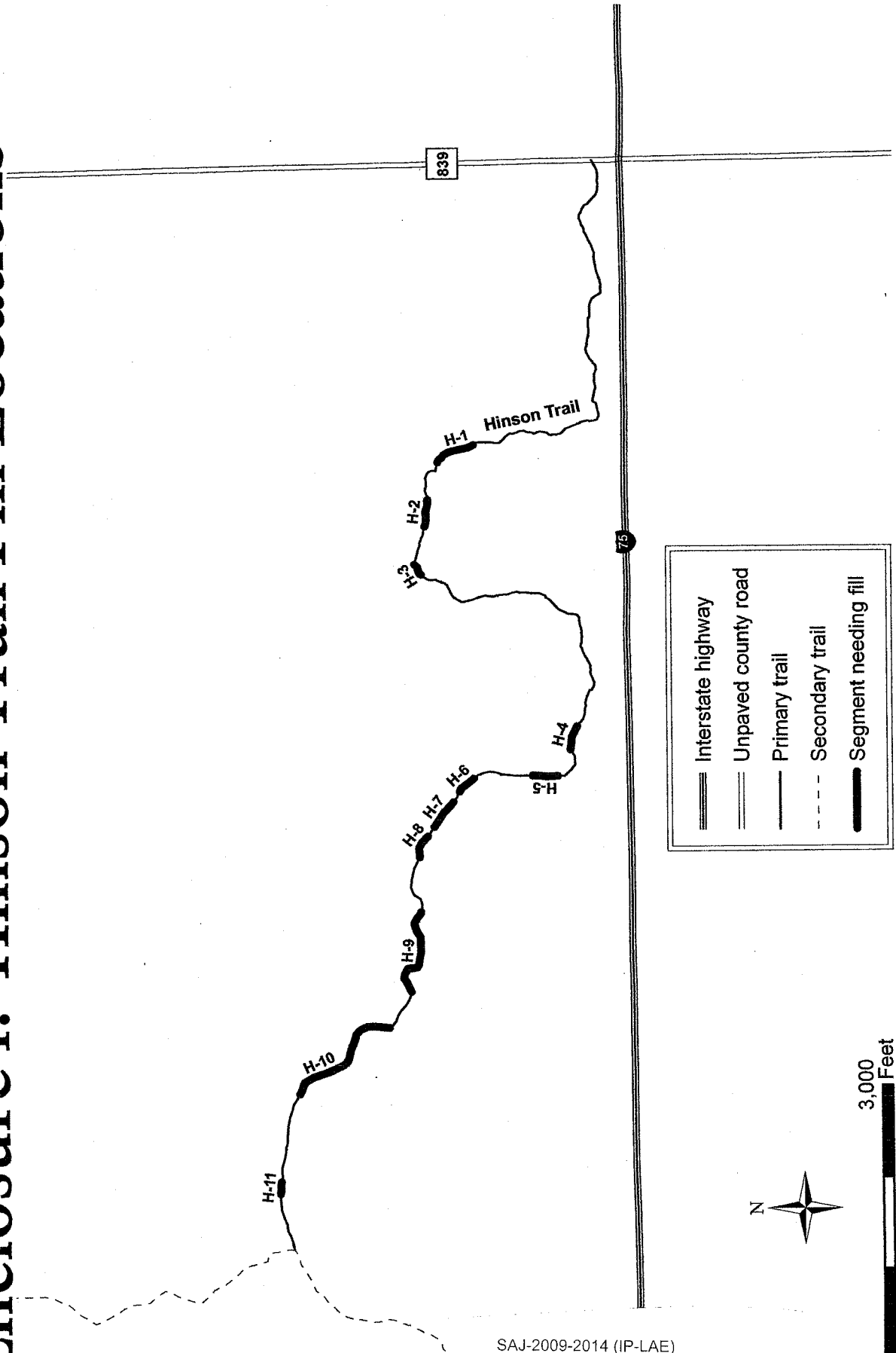
Airboat Trails
Bear Island
Concho Billy, S. Portion
Buckskin
Little Deer
Oasis, S. Portion
Monroe South
Paces Dike
Monument



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September 2003

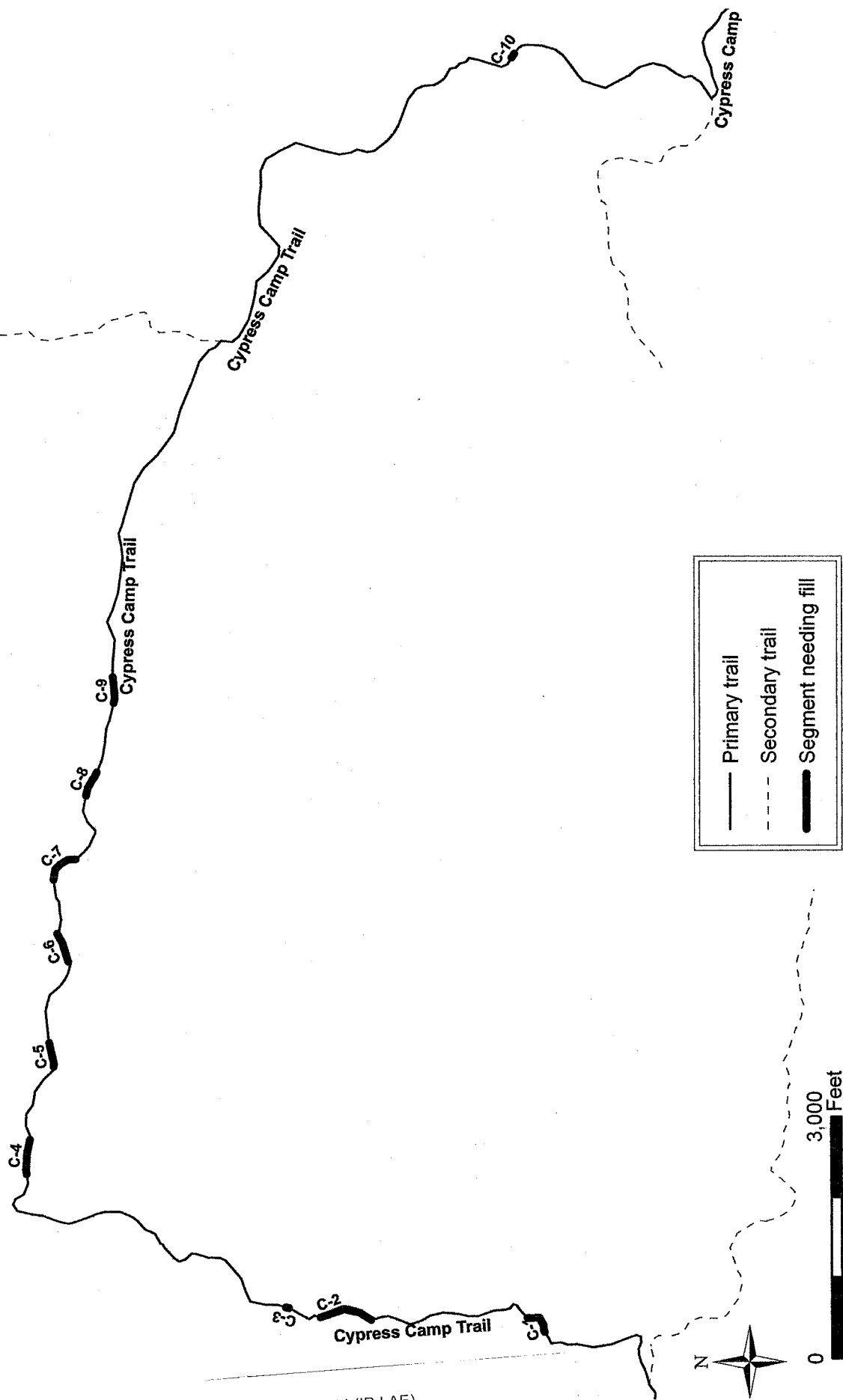
Enclosure I. Hinson Trail Fill Locations



June 2009



Enclosure 2. Cypress Camp Trail Fill Locations

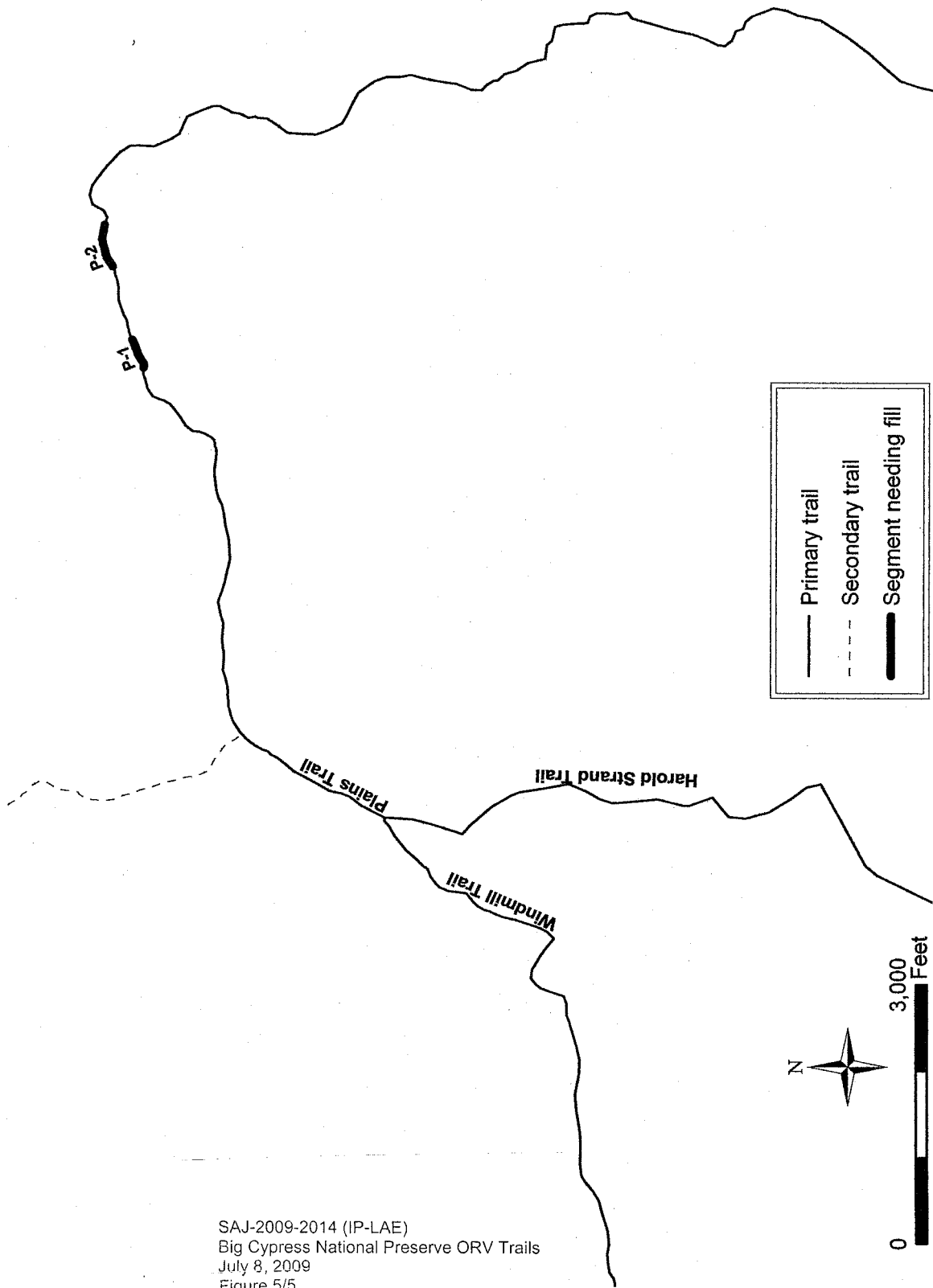


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Big Cypress National Preserve ORV Trails
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Figure 4/5

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Enclosure 3. Plains Trail Fill Locations



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